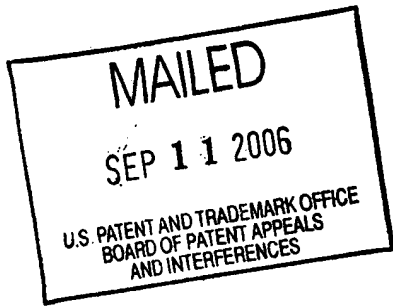


The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte NIGEL EVANS

Appeal No. 2006-1241
Application 10/620,842

ORDER REMANDING TO THE EXAMINER

The Examiner entered a new ground of rejection in the Examiner's Answer mailed August 25, 2005, in particular the rejection of claims 11, 14, 15 and 17 under 35 USC § 102(b). However, requirements for a new ground of rejection, as set forth in The Manual of Patent Examining Procedure (MPEP) § 1207.03 was not met. MPEP § 1207.03 requires the following, when a new ground of rejection is made in an answer:

- 1) the new ground must be approved by a TC Director or designee;

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2) the new ground must be identified (as a new ground) in the Grounds of Rejection to be Reviewed on Appeal and Grounds of Rejection sections of the answer; and

3) the examiner's answer must provide appellant with a 2-month period to respond to the new ground of rejection.

Lastly, a Supplemental Appeal Brief was filed subsequent to the answer on February 24, 2006, which does not respond to the new ground of rejection. However, there is no indication that the Examiner considered the Supplemental Appeal Brief.

Accordingly, it is

ORDERED that the application is being electronically remanded to the Examiner for proper entry and response to the new grounds of rejection made in the Examiner's Answer mailed August 25, 2005, for consideration of the Supplemental Appeal Brief, and for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW
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GJH

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